

Message Text

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ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 AID-05 EB-08 SSO-00 L-03
/033 R

DRAFTED BY OPIC/GC:AKEESEE
APPROVED BY EB/IFD/OIA:RDKAUZLARICH
EB/IFD/OIA:DGRANT
AID/NE/CO:WFRASER
NEA/PAB:MHORNBLOW
-----065161 212157Z /70
O 212126Z SEP 77
FM SECSTATE WASHDC
TO AMEMBASSY KABUL IMMEDIATE

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: FISCHBACH KAJAKAI CLAIM

REFS: A. KABUL 6338; B. STATE 118663; C. KABUL 6515

1. OPIC NOTES AND APPRECIATES CHARGES PROMPT ACTION IN
MEETING WITH MOHAMMADI ON FIRST WORKING DAY AFTER RAMADAN.

2. OPIC GRATIFIED THAT MOHAMMADI HAS AGREED IN SEPT. 5
LETTER, REF A, TO ARBITRATE EXTENDED OVERHEAD CLAIM IF
NEGOTIATIONS UNAVAILING. THIS AGREEMENT, AS NOTED PARA 1,
REF B, OBVIATES POSSIBILITY OF VALID FOI CLAIM AGAINST
OPIC PROVIDED REPEAT PROVIDED A) GOA FOLLOWS THROUGH IN
GOOD FAITH ON PROMISE TO ARBITRATE AND B) GOA PAYS FOI

WITHIN SIX MONTHS OF ARBITRATORS' DECISION ANY AWARD
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ARBITRATORS RENDER IN FOI'S FAVOR.

3. OPIC HAS TODAY ADVISED FOI WASHINGTON COUNSEL THAT IN
VIEW OF, INTER ALIA, MWP SEPT. 5 LETTER, FOI HAS NO
VALID CLAIM AGAINST OPIC AT THIS TIME. IN THIS REGARD,

OPIC WOULD BRING TO POST'S ATTENTION GIVENS' SEPT. 6

LETTER STATEMENT THAT QUOTE IT IS HOPED THAT A FINAL SETTLEMENT CAN BE QUICKLY MADE WITHOUT OUR HAVING TO INVOKE THE PROVISIONS OF OUR (OPIC) INSURANCE POLICY AND REQUIRE THE INTERVENTION OF (OPIC) UNQUOTE. THIS MAY BE SOMEWHAT MISLEADING. IN FACT, THE OPIC POLICY COULD NOW BE INVOKED BY FOI ONLY REPEAT ONLY IF GOA EITHER FAILS TO FULFILL ITS STATED PROMISE TO ARBITRATE OR FAILS TO PAY AN AWARD. FAILURE BY GOA TO REACH QUOTE FINAL SETTLEMENT UNQUOTE IS NOT REPEAT NOT GROUNDS FOR INVOCATION OF OPIC POLICY. IF POST FEELS IT IS APPROPRIATE, POST MAY WISH TO BRING TO MOHAMMADI'S ATTENTION THIS DISTINCTION BETWEEN FAILURE TO SETTLE, ON THE ONE HAND, AND FAILURE TO ARBITRATE AND PAY AWARDS, ON THE OTHER. OPIC TRUSTS THAT THIS CAN BE DONE WITHOUT UNDERMINING PROSPECTS OF GOOD FAITH, NEGOTIATED SETTLEMENT.

4. POST'S ASSESSMENT GOA POSITION REF C APPRECIATED. IF GOA DOES GO TO ARBITRATION AND HAS CONFIDENCE IN IMPARTIALITY OF AT LEAST THE THIRD, OR NEUTRAL, ARBITRATOR THIS HARD LINE MAY SOFTEN SOMEWHAT.

5. CAN POST ADVISE IF FURTHER MWP-HUTSON MEETINGS YET SCHEDULED?

6. YOUR CONTINUING ASSISTANCE AND PROMPT ACTION IN THIS CASE HAS BEEN AND IS GREATLY APPRECIATED BY OPIC. VANCE
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS, DISPUTES, ARBITRATION, INVESTMENT GUARANTEES
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE227218
Document Source: CORE
Document Unique ID: 00
Drafter: AKEESEE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770343-1045
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770937/aaaabfaz.tel
Line Count: 94
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 68f77240-c288-dd11-92da-001cc4696bcc
Office: ORIGIN OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 KABUL 6338, 77 STATE 118663, 77 KABUL 6515
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 15-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1183748
Secure: OPEN
Status: NATIVE
Subject: FISCHBACH KAJAKAI CLAIM
TAGS: EINV, AF, OPIC
To: KABUL
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/68f77240-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009